

REMARKS

Claims 1, 4, 5, 8, 15, and 18-21 have been amended. Claims 1-21 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Section 112, First Paragraph, Rejection:

The Office Action rejected claims 1-21 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants continue to respectfully traverse this rejection, although to expedite issuance of a patent, Applicants have nevertheless amended the independent claims as discussed below. If further questions of support under 35 U.S.C. § 112, first paragraph arise upon consideration of this amendment, Applicants request that the Examiner contact Applicants' undersigned attorney prior to taking further action in the case.

To clarify the record, Applicants note once again that the standard for whether claim language is supported by the specification under 35 U.S.C. § 112, first paragraph, is not whether the claim language literally appears in the claim, but whether one of ordinary skill would recognize that the inventor had possession of what is claimed. “[*I]p[er]s[em] verbi* disclosure is not necessary to satisfy the written description requirement of section 112. Instead, the disclosure need only reasonably convey to persons skilled in the art that the inventor had possession of the subject matter in question.” *Fujikawa v. Wattanasin*, 93 F.3d 1559, 1570 (Fed. Cir. 1996). “Terms need not be used in *haec verba*.” *Koito Mfg. Co. v. Turn-Key-Tech, LLC*, 381 F.3d 1142, 1154 (Fed. Cir. 2004) (internal citation omitted; emphasis added). “The subject matter of the claim need not be described literally in order for the disclosure to satisfy the description requirement.” *M.P.E.P. 2163.02*.

The Office Action states that “[t]he Examiner has clearly stated and given reason[s] as to why the claims are being rejected under 35 USC § 112, first paragraph. However, the Applicant states that the Examiner has not provided reason for rejection.” Office Action at 11-12. This does not accurately reflect Applicants’ position. Applicants previously noted that when the specification contains a description of the claimed

invention (although not in identical words), it is the Office's burden to demonstrate why one of ordinary skill would not recognize the claims from the description. Applicants did not argue that the Office has failed to provide any reasons for the rejection. Instead, Applicants have stated that the reasons provided by the Office are not adequate under controlling case law.

The Office Action further states that “Applicant continues to argue that . . . configured to communicate is the same as actually communicating.” Office Action at 12. Again, this does not accurately represent Applicants’ position. Applicants do not contend that “configured to communicate” means “actually communicating.” However, Applicants do contend that one of ordinary skill would understand that “configured to communicate” indicates possession by Applicants of “actually communicating,” and thus satisfies the requirements of § 112, first paragraph, under the tests described above. Applicants continue to assert that the claim language is supported in view of the controlling case law.

Nevertheless, to expedite issuance of a patent, Applicants have amended claim 15 to address the issues raised by the Examiner. Specifically, claim 15 now recites that the program instructions “are executable,” that an application is “executable on said server,” that the server “is configured to implement a multithreaded execution environment,” that the program instructions are “executable by the server to implement a device interface,” that the mass storage device “is accessible via said server by a user,” and that the program instructions “are executable by the server to further store data to said mass storage device.”

Applicants submit that the language of amended claim 15 finds abundant support in the specification. Applicants further note that the Office Action acknowledges that the specification “appears [to] support the initial language of [the] claims (e.g., configured, accessible, etc.).” Office Action at 2.

Applicants have amended independent claims 1 and 8 to reflect the features of claim 15 that were indicated as allowable, and to reflect the changes discussed above. With respect to claim 8, Applicants note that paragraph [0051] of the specification states

that “[d]evice manager 440 may then detect the hotplugging event resulting from the coupling of storage device 25 to given stateless client 10 and may notify storage service daemon 430 of the hotplugging event.” This paragraph further states that “kernel modules 410 may responsively create block- and/or character-type device interfaces for use by application 400.” Applicants specifically note that this paragraph does not contain “configured to” language. Accordingly, Applicants submit that at least paragraph [0051] supports the recited “detecting the presence of a mass storage device” and “interfacing said mass storage device to an application” of claim 8.

For at least the foregoing reasons, Applicants submit that the rejection under 35 U.S.C. § 112, first paragraph has been overcome, and respectfully request that it be withdrawn.

Section 103(a) Rejections:

The Office Action rejected claims 1-3 and 8-10 under 35 U.S.C. § 103(a) as being unpatentable over Billington et al. (U.S. Patent 7,103,760) (hereinafter “Billington”) in view of Kao (U.S. Publication 2005/0160150) and King et al. (U.S. Publication 2005/0102377) (hereinafter “King”), claims 4, 5, 11 and 12 as being unpatentable over Billington in view of Kao and further in view of Bouvier et al. (U.S. Publication 2003/0014587) (hereinafter Bouvier), claims 6 and 13 as being unpatentable over Billington in view of Kao and further in view of Pooni et al. (U.S. Publication 2004/0064461) (hereinafter Pooni), and claims 7 and 14 as being unpatentable over Billington in view of Kao and further in view of Hochmuth et al. (U.S. Publication 2003/0056063) (hereinafter Hochmuth). Although Applicants respectfully traverse these rejections, Applicants submit that they are moot in view of the amendments to add features of allowable claim 15 to independent claims 1 and 8.

Claims Objected To But Otherwise Allowable:

Claims 15-21 were indicated as allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, first paragraph. Applicants submit that the amendments discussed above address the § 112, first paragraph, rejections. Applicants further note that

independent claims 1 and 8 have been amended to conform their language with claim 15. Accordingly, Applicants submit that claims 1-21 are in condition for allowance.

CONCLUSION

Applicants submit the application is in condition for allowance, and an early notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-76100/RCK.

Respectfully submitted,

/Robert C. Kowert/
Robert C. Kowert, Reg. #39,255
Attorney for Applicants

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8850

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